TELLS THE FACTS AND NAMES THE NAMES

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When Bad News is Good News

Making Big Bucks by Betting on Collapse

By Carl Ginsburg

Demise is the growth industry of America today, and it comes in an array of products: from home foreclosures in thousands of communities to the collapse of city services and bottoming out of state budgets, all in the mix at the derivative desks of Wall Street's top banks. The keen ability to see bounty in decline, profit in distress, and riches in collapse is hardly new, with roots in criminal landlordism, Ponzi schemes, tax evasion, accounting scams, not to mention good old-fashioned exploitation. Once you enter the world of profit and set your sites on the kinds of returns – 30 per cent annual – that the likes of Steve Schwartzmann and other cutting-edge capitalists sought and captured, the trip to the labyrinth world of risk management is not far at all.

How to make money pegged to driving wages down? One sure route is to own a factory and pay the workforce scant wages. Schwartzmann of the Blackstone Group has been joined by David Rubenstein and his Carlyle Group and Warren Buffett of Berkshire Hathaway in buying into Chinese companies, such as pharmaceutical makers, operating in the PRC and or whereever wages are lowest.

The other approach to profit from low wages is, in some sense, less cumbersome: bet on demise, say, by wagering that loans on houses will default, through so-called CDOs (that is, "collateralized debt obligations.") Here your investment in housing defaults – that's when a family has to pack up and leave their home for nonpayment, sometimes moving to shel-

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"Never Forget!"

Where the Dead Still Walk: Civil War Graveyards and the Confederate Flag

By Kevin Alexander Gray

Shields Green: "I'll go with the old man." Born enslaved in South Carolina, Green escaped to Canada before returning to the U.S.A., where he met Frederick Douglas who introduced him to abolitionist John Brown. After Brown laid out his plan to raid Harpers' Ferry on October 16, 1859, to Douglas, Harriet Tubman, Green and others, Green gave his now famous reply to Douglas. Brown was hanged on December 2, 1859. Green was hanged two weeks later, on December 16.

There are a few "heritage" supporters, among others, that haven't forgotten when eight or so people and I gathered at base of the Confederate Soldiers' Monument on the South Carolina Statehouse grounds on Confederate Memorial Day, May 10, 2000, and set fire to Confederate and Nazi flags, sewn together.

In hindsight, burning the flags on May 9, the birth date of abolitionist John Brown, may have been more appropriate. Brown was a pivotal character in the Civil War, defining early on that the struggle was about slavery. I begin my book *Waiting for Lightning to Strike: The Fundamentals of Black Politics* with his 1859 quote: "… It is my sympathy with the oppressed and wronged that are good as you and as precious in the sight of god… You may dispose of me easily, but this question is still to be settled – the Negro question – the end of that is not yet."

For me, Green and Brown's commitment, words and how they died, trumps continuing attempts to recast the Civil War as "War of Northern Aggression," using friendly sounding slogans like "heritage not hate" or claims of defending the principle of states' rights, or saying it's memorialization of those who died in war as opposed to glorification of white supremacy.

The neo-Confederates' motto is "Never forget." We should all adopt it.

The easy response to Confederate heritage buffs is to call them "racists" and let it go at that. Which isn't to say they aren't, but this certainly doesn't slow their political and economic promotion of all things Confederate. And given the amount of revenue generated by Civil War tourism – particularly in the South – we can't just let them recast the story by way of our national parks and the proliferation of markers, monuments and state-operated parks and battle sites. The descendants of the first progressives – abolitionists and once-enslaved and free Africans – have to tell what our kin did before, during and after the Civil War and pay closer attention to the politics around how history is being reworked.

A day or so before we burned the rebel flag, I was talking on the phone to a white, liberal friend. She asked me, "Why are you doing this?" and, "Who's putting you up to this?" From time to time since, others have asked, "Why did I do it?" I told my friend back then that nobody put me up to it except those promoting the Confederate flag. I also said, it's what I think of the flag and what it stands for – slavery, racial oppression, a privileged, landed class, white supremacy and patriarchy, and a deep-seated belief in the very existence and rightness of the Confederacy. Those who fought and died under the Confederate flag were willing to die for the expansion of slavery. The flag represents the glorification of that history. This, not some vision of mint juleps and ladies in ringlets and lace, is

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ters – reaps you cash benefits; a simple way to bet on low wages and usurious mortgage rates, combining to undercut stability in the housing market. Further, by protesting government relief efforts for poor and defrauded homeowners, the default becomes more likely, hence the more money the CDO holder stands to make. In 2007, almost $50 billion was invested in housing collapse – a very good investment as stagnant wages could not keep up with high-interest mortgages and declining asset values. The human face? Chalk it up to irresponsibility, more expensive houses than they could afford in neighborhoods beyond their reach. Little did these regular people know that it was all about managing risk, the trade of sophisticated investors.

Another way to profit from someone's bad fortune: credit default swaps – i.e., insurance contracts that pay bondholders when there is default. A few years ago, these stalwarts of market innovation became available in the municipal debt market, and today investors are pouring money into the collapse of cities, towns and bridges. In fact, investors are committing billions in hopes of the demise of more than a dozen states, including California, Michigan, and New York.

A big assist in the bet against communities, cities and states is declining tax revenue. The Bureau of Economic Analysis reports that personal tax bills in 2009 were at 9.2 per cent of personal income, the lowest level in a half-century, far below the historic average of 12 per cent. That's good news: low taxes mean revenue crisis for state and local government, raising the prospect of default. "The idea that taxes are high right now is pretty much nuts," economist Michael Ettlinger told *USA Today* on May 11. You can take that to the bank if you bet the downside.

At the top of the list of municipal bonds, whose swap investors are betting on implosion: the Port Authority of New York & New Jersey, operator of the Metro area buses, trains, bridges and tunnels. For each $22,500, a swap investor bets on $1 million worth of five-year bonds, hoping to see demise in these Port Authority bonds over that time. Service interruptions, maintenance problems, declines in commuter numbers … these are of what a swap holder's dreams are made, rocking the Port Authority and the value of its bonds. Bad news is good news for such a swap shark.

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The very act of betting on default enhances the swap market, creating a perception of risk and undercutting credit ratings, raising the cost of capital for municipalities, in the above example, thus making government entities more vulnerable. Imagine the skill in doing that.

The dynamics of buying demise is not new to the U.S. government, no matter the volume of protest heard recently, when Senator Carl Levin grilled Goldman CEO Lloyd Blankfein before the Senate Permanent Subcommittee on Investigations. Levin voted for the deregulation that ushered in the swap market, making his recent performance an act of self-deprecation. Some members of Congress make risky bets with their own stocks and bonds, betting these financial instruments would fall during the crisis.

By day, Representative Spencer Bachus (R, AL) is the ranking Republican on the House Financial Services Committee, by night a trader on his own Fidelity account in a fund linked to declines on Nasdaq. According to the *Wall Street Journal*, Bachus sent Barney Frank a letter, tying mortgage company problems to "short-seller activities" while profiting on decline. New York's junior Senator Kirsten Gillibrand praised the White House on April 22 for its efforts to "rein in excessive risk and leverage in pursuit of short-term profits." Meanwhile, her husband, Jonathan, made more than 250 transactions in options while she was in the House. Among those investments are 34 puts on stocks (bets on decline) of home-building companies.

As Athens burns, the elites raid the treasuries of the European Union, aping the actions of the Bush-Obama axis recovery, and finance takes on a larger role in the world economy. As Kevin Phillips writes in *Wealth and Democracy*, "[I]n the last quarter of the twentieth century, through deregulation, floating currencies, state-of-the-art computers, and electronic search-and-profit programs, finance was transformed from yesteryear's somewhat patient capital to organized impatience … [T]he profits of these digital dances seeped into the real economy, and by the mid-1990s the financial sector – finance, insurance and real estate – for the first time moved ahead of the manufacturing sector in U.S. national income and GDP measurements."

There is, Phillips concludes, "a broad correlation between the principal expansions of banking, financial innovation, and the stock markets … and the most notable enlargements of wealth and economic inequality."

The echo of "risk management" can heard up and down Wall Street and inside the Beltway. While offered up by the titans of finance as a neutral, market-balancing mechanism, risk management is nothing more than the latest incarnation of a decades-long campaign of hyperfinancialization, a pocket-stuffing mania of irresponsible elites which, if left undisturbed, will continue to induce even grosser economic inequality the world over. **CP**

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the "heritage" that modern Confederates defend when they champion this flag and the Confederacy. For most Americans, let alone most African Americans, the men who died under the Confederate battle flag were not heroes: they were traitors to the fundamental notion of human freedom.

In addition, we wanted to let those fighting to keep the flag on the dome know that burning the symbol they so loved was a taste of things to come.

And, as the flag debate raged by people full up on their take of history, I thought – who's telling our story and who's representing our champions? The answer I came up with: not many.

Early on, I argued that the flag on the South Carolina Dome represented "compelled speech." Flying it on a public building or land compels us to accept its ideological implications as official. I had planned to file a First Amendment challenge in court before the NAACP announced an economic boycott of the state, a boycott that supposedly is still in effect. Another bone of contention was that the Statehouse lawn is crowded with statues of white, Confederate "heroes." At the time of our demonstration in 2000, there were no statues to black anti-slavery figures, such as Denmark Vesey. And when it was suggested that a statue of Vesey be erected somewhere – it didn't even have to be on the capitol grounds – neo-Confederates, from the floor of the state legislature, called Vesey a terrorist, among other things.

So, while we had to swallow the Confederate side of the story through constant promotion of their most valued symbol, anti-slavery figures were dismissed as radical or criminal and routinely left out the story.

South Carolina law prohibits a citizen from desecrating a Confederate flag. Yet, on that day in May, we were ready to go to jail. We felt that the law was (and is) unconstitutional. But just as we were getting into the vans to head to the capitol, the police and fire marshals pulled up in front of my house with a permit in hand, which we did not apply for, deeming our act a "ceremonial" flag burning. That way the police would not have to arrest us.

When we arrived at the Statehouse, 100-plus flag supporters, waving a variety of rebel flags and spewing threats, surrounded us. It was tense. Traffic was blocked on the streets running pass or directly to our demonstration. I was given a bulletproof vest to wear, which didn't make me feel any safer. A large contingent of state and local police and fire officials stood between the rebels and us. Across Gervais Street (which runs in front of the capitol building) – at a safe distance – I saw some familiar faces, black and white, who wanted to cross the street but didn't for whatever reasons.

Inside the capitol building one Republican House member, State Representative Rick Quinn who supported the flag remaining on the dome, shed tears on cue and called us names. Quinn later signed on as John McCain's South Carolina consultant in his first presidential bid. He had to quit though, when it was discovered he and his father published the neo-Confederate magazine *Southern Partisan*. Particularly embarrassing to the McCain camp was a full-page picture of Abraham Lincoln in the magazine, with the caption below his image, "Sic Semper Tyrannis," which translates as "death to tyrants," or, "thus always to tyrants." It's what John Wilkes Booth is said to have yelled after he shot Lincoln in Ford's Theatre on Good Friday, April 14, 1865. Lincoln died the next day, on April 15. Booth was tracked down and killed by Union soldiers 12 days later, on April 26, 1865.

I was given a bulletproof vest to wear which didn't make me feel any safer. A large contingent of state and local police and fire officials stood between the rebels and us.

Now, if you're going to burn a flag, make sure it's cotton – not that synthetic, man-made, plasticlike material. The synthetic material melts and drips little fireballs. Whatever the material, soak it overnight in kerosene or lighter fluid. The cotton Nazi flag, which fellow flag burner and seamstress Shanita Goodwin stitched together with the Confederate flag, went up in a flash. The store-bought synthetic Confederate flag burned so much slower that we had to keep squirting it with Zippo lighter fluid, much to the delight of the rednecks surrounding us, who sang, "Our flag won't burn, our flag won't burn," to the tune of Dixie.

Even now, surf the Internet and you'll come across, on a few of the Southern heritage websites, a picture of us burning the flag, with the caption "Our flag didn't burn!"

But it did. Finally. A piece burned and oozed off onto the ground still ablaze. But we still had a good bit left unburned. So, we dipped the remaining piece of flag hanging from our makeshift PVC flagpole into the red goo burning on the ground, while liberally squirting lighter fluid on the melting mass as the fire chief tried to stop us, claiming the fluid was a "hazard."

A middle-aged white guy with long gray hair in the crowd yelled out, "We'll see you in hillbilly hell." I glanced over my shoulder and jokingly shot back that "hell must be a trailer park in Lexington." Lexington is the county across the river from Columbia (which sits in Richland County). A Confederate flag flying in someone's front yard or business isn't an unusual sight over there. It's a stronghold of conservatism, Republicans, and home of Congressman Joe Wilson, who infamously shouted "You lie!" at President Barack Obama during his 2010 State of the Union Address.

Neo-Confederates ("Cult of the Lost Cause[rs]") love to keep up with dates. They know that on July 2, 1776, the "anti-slavery clause" was removed from the Declaration of Independence at the insistence of Edward Rutledge, delegate from South Carolina. Rutledge threatened that South Carolina would fight for King George against her sister colonies. He asserted that he had "the ardent support of proslavery elements in North Carolina and Georgia, as well as of certain northern merchants reluctant to condemn a shipping trade largely in their own blood-stained hands." Fearful of postponing the American Revolution, opponents of slavery, who were in the clear majority, made a "compromise." Thus, July 4, 1776, marks for African Americans not Independence Day but the moment when their ancestors' enslavement became fixed by law as well as custom in the new nation.

Also, Lost Causers know when Brown attacked Harper's Ferry and who was the first to die in the now famous raid. I took a three-day trip to visit Appomattox, Antietam, and Harper's Ferry National

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Historical Park in April, shortly after Virginia Governor Robert McDonnell declared it Confederate History Month in his state. At Harper's Ferry, park ranger William L. Banks pointed out to me a stone monument across the street from "Brown's Fort." Oddly, the South Carolina Chapters of the Sons and Daughters of the Confederacy gave the 5-foot stone to the park. On it was the name of Heyward Shepard, a free black employee of the Baltimore & Ohio Railroad. Shepard was the first person killed on October 17, 1859, as Brown's plans unfolded. Banks asked, "What strikes you about the monument?" – to which I replied, "It was donated by the Confederate groups." I remarked that I was glad to see Shepard's name etched in stone, but I thought the Confederate groups donated the stone to make their point that "blacks also died at the hands of the North."

It was also clear after visiting the sites, and being the only black person in sight with the exception of Banks and a few other park workers, that the parks are primarily the playgrounds of heritage buffs. At Appomattox, I stopped by a Confederate Cemetery maintained by the Appomattox United Daughters of the Confederacy. The site contains the remains of one Union soldier and 18 Confederates nestled under magnolia trees and Confederate flags. In April (usually on Sunday closest to April 9) of every year, a Memorial Service is held at this cemetery "to honor these soldiers and all soldiers who have fought for their country and the causes they believe in." At first, I drove past the small group of white men placing small Confederate flags on the graves. I went to the Visitor Center in the Courthouse and signed the registry, leaving the comment, "I'm glad the Union won." I then went back to the gravesite. As I put my hand on the wrought-iron gate, I hesitated for a split second, as I read the small plague on the gate inviting me to "Step in and Honor our Fallen Heroes." It was a bit off-putting, but I figured there was a Union soldier in there too. The white couple taking pictures was pleasant, but I'm sure they wondered why I was there.

There's no limit to the factual tidbits that neo-Confederates carry in their history bags. They don't just know the dates of events but also the routes and tactics of large battles, such as Antietam or Gettysburg, and even smaller skirmishes near where they live. They know when William Tecumseh Sherman and David "Black Dave" Hunter marched through their state and town. They can tell you where a particular officer stood, slept, planned and maneuvered on the battlefield. They can give an hour-by-hour, cannon shot by cannon shot replay of battles, to include names of units, officers, or their kin who fought and maybe even died in a particular fight. They know to the minute when Robert E. Lee surrendered to Ulysses S. Grant and what they said or wrote to each other, as they know when Lincoln was killed and Booth was hanged.

Many of the present-day Tea Partiers share the "states' rights" philosophy with neo-Confederates, holding anti-government rallies on the day taxes are due, which just happens to fall on the anniversary of Lincoln's assassination, a twofer.

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Some dates and events are more significant than others. April is special for many reasons. The Civil War started on April 12, 1861, as Confederates began bombarding Fort Sumter as did Lee's formal surrender, which happened on the same date four years later. So, when the South Carolina Senate voted to remove the flag on April 12, 2000, on the anniversary of the beginning and end of the Civil War, it wasn't a surprise to me. Also not a surprise was picking July 1, 2000, as the date the flag was removed from atop the Statehouse. It fitted in with the state's pro-slavery "deal" at the start of the new republic. Then, there were the two students from The Citadel, one white and one black, who went to the top of the dome to remove the flag. The Citadel was built as a base, in which to respond to the Denmark Vesey slave rebellion, and Citadel cadets fired the first shot of the Civil War. I suppose it was ironic that one of the cadets was black. And, if you pass through South Carolina, no doubt you will see plenty of cars sporting what looks like the state flag with its Palmetto tree and quarter moon, only the flag is red instead of blue. It's a replica of the cadet's Civil War flag.

On the day the flag came off the S.C. Dome, flag supporters gathered by the thousands. A couple hundred flag opponents with yellow placards, reading "SHAME," offered counter-protest. The cadets ceremoniously handed the flag off to three Confederate reenactors, who marched it to its current location on a pole by Confederate Soldiers' Monument. I had mentioned publicly earlier in the week about stepping in front of the soldiers as they marched toward the new location, or maybe even burning another flag. As I arrived at the Statehouse, three or four state troopers, who shadowed me all that day, immediately surrounded me. There was only one arrest that day. Yakub Greene, a young man from our original flag-burning crew – aptly named the Harriet Tubman Freedom Project – was taken to the county jail for disorderly conduct.

So, when McDonnell proclaimed April as Confederate History Month in his state, only mentioning those "who fought for their homes and communities and Commonwealth" and of the importance of understanding "the sacrifices of the Confederate leaders, soldiers and citizens during the period of the Civil War," it didn't set off any new alarm bells. Virginia had celebrated the Confederacy from 1994-2002, before the commemoration was revoked. But Lee-Jackson Day is old history – first observed in 1889 in Virginia by proclamation of Governor Fitzhugh Lee, a descendant of Robert E., and then combined with Stonewall Jackson's birthday, starting in 1904, by proclamation of the then-Governor Andrew Jackson Montague.

Virginia is, also, not alone in celebrating "Confederate History Month." Alabama, Mississippi, and Louisiana have celebrated this month for quite some time. In Mississippi, Georgia and Alabama, the Confederate holiday predates the Martin Luther King Jr. holiday. Still, in the last decade or so, Texas (since 1999), Florida (since 2007), and Georgia (since 2009) have also instituted celebra-

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tions of Confederate History Month, which appears to be the trend – from a day to a month.

McDonnell didn't mention slavery in his original proclamation, saying he "focused on the ones I thought were most significant for Virginia." As is typical for him and those like him, African enslavement wasn't the most significant aspects of the war. Yet, once President Barack Obama and former Virginia Governor L. Douglas Wilder – the nation's first African-American president and its first African-American governor – as well as a host of state leaders, including members of the Black Caucus, rebuked him, McDonnell apologized for leaving out of his proclamation any reference to slavery and added language to the decree calling slavery "evil and inhumane."

McDonnell was mum on another embarrassment that was bubbling below the surface in his state. Photos of motorists with vanity license plates, containing a coded message of white supremacy, made the rounds on the web. The Virginia Department of Motor Vehicles ended up recalling them. They had received complaints on the "14CV88" plates since they were registered in 2005. The "14" references a 14-word-long statement: "We must secure the existence of our people and a future for White children," a phrase coined by David Lane, deceased co-founder of the violent white nationalist group The Order. "CV" stands for "Confederate Veteran." And, "88" is a number used by the neo-Nazi to convey the phrase "Heil Hitler," because the eighth letter of the alphabet is "H." The plate itself is also one of a special edition series created by the Sons of Confederate Veterans.

Nonetheless, special days and months, special cars tags, Kappa Alpha frat boys who dress up like Rebel officers, and the proliferation of Confederate monuments and battle site parks isn't a new thing. While I were a freshman in 1974 at a predominately while college, the frat boys dressed up as rebels and chased some neighborhood black kids, whom they paid, across campus as if they were runaway slaves. The school ended the ritual that year, so as to head off violence between the new black students on campus and the white frat boys. So, KA frat boys donning Confederate uniforms at an Alabama college and marching to a black sorority is more of a bad tradition than aberration. And, even as the Virginia governor's dust-up played out, North Charleston, S.C., Mayor Keith Summey accepted, then withdrew his offer to the Sons of Confederate Veterans to place a monument to South Carolina's Secession in a city park, when it became "too controversial." Yet, if you were to drive into the city of Charleston, you would quickly discover that the seaport's tourism is based on slavery and the Civil War. You can take a horse-drawn carriage tour from the Slave Market to The Citadel, to the statue of John C. Calhoun, to the Confederate Submarine Hunley Museum – or hop on a boat to Fort Sumter, just to name a few.

Doubtless, efforts to rehabilitate the

At the predominately white college I attended, the frat boys dressed up as rebels and chased some neighborhood black kids, whom they paid, across campus as if they were runaway slaves.

Southern rebellion seem to come at moments of racial and social stress by folk who feel alienated and angry about the black president, or health care reform, or "big government." Although, their anti-government concerns seem to melt away when it comes to spending tax dollars to maintain the ever-growing list of parks, monuments and battle sites. Still, the glorification of the Confederacy is mostly about white resistance to black advances and the erosion of white privilege, or supremacy, than about commemoration. It's been that way since the1880s and 1890s when, as Jon Meacham wrote in a *New York Times* column," after fighting Reconstruction with terrorism and after the Supreme Court struck down the 1875 Civil Rights Act, states began to legalize segregation. For white supremacists, iconography of the 'Lost Cause' was central to their fight; Mississippi even grafted the Confederate battle emblem onto its state flag." Meacham goes on to say, "… the Supreme Court allowed segregation in *Plessy v. Ferguson* in 1896, and Jim Crow was basically secure. There was less need to rally the troops, and Confederate imagery became associated with the most extreme of the extreme: the Ku Klux Klan."

Meacham points out that after World War II, the rebel flag and other Confederate symbolism proliferated as the civil rights movement grew: "In 1948, supporters of Strom Thurmond's pro-segregation Dixiecrat ticket waved the battle flag at campaign stops. Then came the school-integration rulings of the 1950s. Georgia changed its flag to include the battle emblem in 1956, and South Carolina hoisted the colors over its Capitol in 1962 as part of its centennial celebrations of the war."

But nobody should ask anyone to forget history or to give up his or her symbols. Just the opposite: we must never forget!

We should not forget that even during enslavement and the Civil War Africans fought back. There were five black men among Brown's raiding party: Lewis Leary, Dangerfield Newby, Shields Green, Osborne Perry Anderson, and John Anthony Copeland Jr., along with the 16 white men who followed Brown to Harper's Ferry to fight for freedom of the enslaved Africans. Anderson was the only surviving black member of the raiders and the only member of the group to live to write about it.

Had I not visited Harper's Ferry, I would not have known that it was once a predominately black town, when Brown arrived on the scene. Or, of the many groups today, including the Ku Klux Klan, whose members see the town as a part of their history and "a place to protest black rights." I wouldn't have known about Storer College, one of the first schools for freed Africans, that was once there, and that in 1906 the Niagara Movement, which established the NAACP, "used the campus for their first meeting on American soil."

As Ranger Banks put it, "We all have a stake in these parks and we should come to see what they are about and be involved in the process of reviewing and sometimes telling and retelling the story."

Certainly, neo-Confederates would like the Civil War "to be seen in a political, not a moral, light." As Meacham wrote: "If the slaves are erased from the picture, then what took place between Sumter and Appomattox is not about the fate of human chattel, or a battle between

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good and evil. It is, instead, more of an ancestral skirmish in the Reagan revolution, a contest between big and small government."

For those with an unbiased and honest view of history, the Confederacy will always represent racial oppression, first and foremost. Those who put one of the many Confederate flags on their cars, or fly them in their yards, at least do us the favor of letting us know what they stand for.

Still, there must be a repudiation of those who would use those symbols, icons, and their take on history to glorify the immorality of the past.

Efforts to rehabilitate the Southern rebellion seem to come at moments of racial and social stress by folk who feel alienated and angry about the black president, or health care reform or "big government."

On my stop at Antietam, I watched a film of Lincoln's visit to the battle site after the fight was over. Toward the end of the film, the narrator mentioned Lincoln's status during the conflict, changing it from the "Preserver of the Union" to the "Great Emancipator." A white gentleman sitting in front of me (and not aware that I, the only black in the building, was behind him) shook his head in disgust and made an audible groan. The woman sitting in front of him almost immediately quipped, "Some folk are still fighting the war."

She's right. The fight to protect white privilege goes on. We have to fight back by keeping them honest about the history of our republic. In a modern context, we have to continue the fight against "...interposition and nullification..." And we have to tell our stories. "Never forget!" **CP**

Kevin Alexander Gray is a civil rights organizer in South Carolina and author of *Waiting for Lightning to Strike! The Fundamentals of Black Politics*, published by CounterPunch Books. He can be reached at kagamba@bellsouth.net

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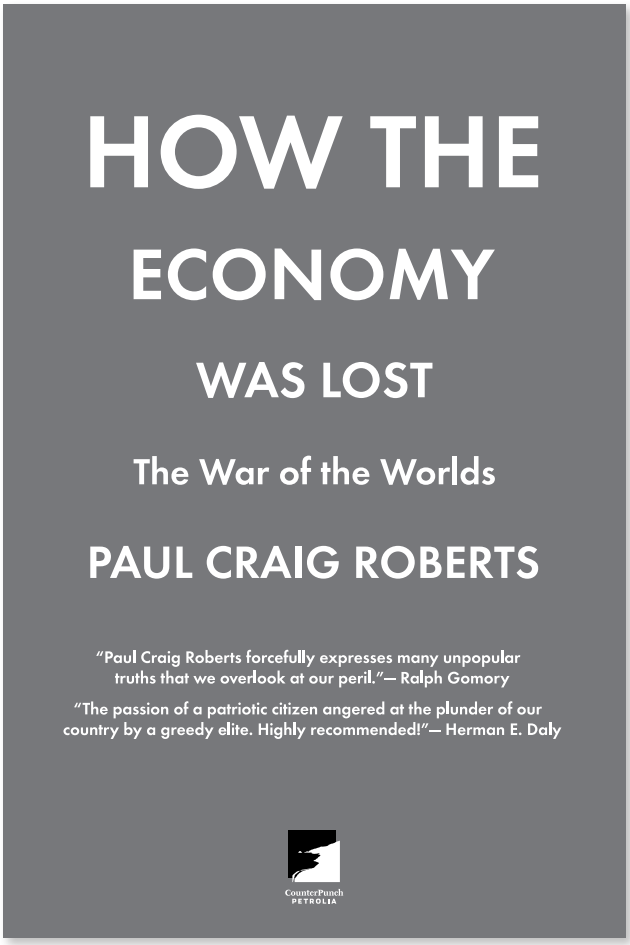
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Elena Kagan and the Whitewashing Of Alan Dershowitz

By Fritz Neil

Elena Kagan, Eliot Spitzer and I were classmates at Princeton, Class of 1981. I knew her a little, because I wrote for the *Daily Princetonian* during my junior year, when she was an editor. I found Elena to be highly intelligent but also somewhat aloof. She was in my eating club, Cloister Inn. I would see her there frequently, eating dinner at the same table as Eliot Spitzer and other politicos, including *Prince* editors. This was a group that was then, probably, vaguely liberal in political philosophy, but that was certainly not its defining feature. Rather, its members saw themselves as hot stuff, who had gotten into student politics not because of any burning desire to espouse progressive politics but rather as a first step up the ladder of success. The group members were largely, but not exclusively, Jewish and largely, but not exclusively, from New York City.

In college, I always assumed Elena was gay. She typically wore men's style jeans with a big leather belt and belt buckle, and often men's style work shirts or Oxford cotton pinstriped men's shirts. I never saw her wear a skirt or dress. I also never saw her having any conversations or interactions remotely of a romantic nature with either males or females.

There is one thing associated with Kagan that I find more troublesome than all of the other reasonable doubts that have been raised about her real ideology by *CounterPunch* and others. I have not seen this issue raised anywhere, thus far. That is, her role in the Alan Dershowitz/Norman Finkelstein feud. To recap, in 2002 Dershowitz came out with a book called *The Case for Israel*, which was nothing more than a crude piece of propaganda that served to justify every bad thing Israel has done since its founding. In September 2003, Norman Finkelstein made an appearance on *Democracy Now!* with simultaneous assertions in a column, entitled "Alan Dershowitz, Plagiarist," by Alexander Cockburn in *The Nation* – later expanded by Finkelstein in his book *Beyond Chutzpah – On the Misuse of Anti-Semitism and the Abuse of History* in 2005. He showed that Dershowitz had plagiarized portions of *The Case For Israel* book from a 1984 book by Joan Peters, called *From Time Immemorial – The Origins of the Arab-Jewish Conflict over Palestine*, that has been exposed as fraudulent by scholars in Israel and worldwide. In the appendix to the 2008 edition of *Beyond Chutzpah*, on pp. 271-394, there is a complete and detailed discussion of the entire matter.

In 2007, Finkelstein came up for tenure at DePaul University. Despite a 9-to-3 vote in favor of tenure by Finkelstein's department, and a 5-to-0 vote by a college-level committee, in June 2007 DePaul University turned him down for tenure and forced him to leave. Already in 2006, Alan Dershowitz had made furious attempts to discredit Finkelstein with DePaul and when Finkelstein's tenure was being considered, took the unusual and ethically questionable step of submitting over 80 pages of materials to various professors and administrators at DePaul, opposing Finkelstein's tenure bid. It is quite obvious, even to the casual observer, that Finkelstein was denied tenure at DePaul not because of his lack of scholarly work but because of incredible pressure from Dershowitz primarily and from other right-wing apologists for Israel, who hate him because he does not follow the party line that Israel is the "only democracy in the Middle East" and can do no wrong.

Amid the uproar over DePaul's decision and Dershowitz's role in it, there were calls for Harvard to discipline Dershowitz because he had published a book with large amounts of plagiarism. Dershowitz says that he asked Harvard University to investigate the claims.

The matter of what to do with the allegations against Alan Dershowitz fell into the lap of then-Harvard Law School Dean Elena Kagan. True to form, Elena "punted" the matter by turning it over to former Harvard President Derek Bok. (Not long thereafter, Bok re-assumed the office of Harvard president after Larry Summers resigned, following an overwhelming "no confidence" vote by the Harvard faculty. Bok had previously been Harvard president for a number of years, going back to the years 1977-1981, when Elena was a Princeton undergraduate. His daughter, Hilary Bok, was in our class at Princeton. She was a member of an eating club called Terrace, which was primarily populated by potheads – but that is another story for another day.)

Bok supposedly conducted an investigation and concluded that there was no merit to any of the allegations against Dershowitz. In an email from Harvard Law School Director of Communications Michael Armini – a spokesman for Harvard Law School Dean Elena Kagan – to Norman Finkelstein, dated December 22, 2004, Armini stated that former Harvard University President (and lawyer) Derek Bok, "a scholar of unquestioned integrity," had looked into the charges against Dershowitz and "found that no plagiarism had occurred." Therefore, the matter was "closed" (*Beyond Chutzpah*, 2008, p. 298).

I don't believe anything has ever been made public, by Bok or anyone else, as to the nature of the investigation, or exactly how he could have found that material that was so obviously plagia-

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rized was not, in fact, plagiarized. In an article entitled "Dershowitz v. Finkelstein – Who's Right and Who's Wrong?" published on the *CounterPunch* website on April 30, 2007, and in the epilogue to *Beyond Chutzpah* (2008, pp. 363-394), Frank J. Menetrez examined the dispute in great detail and concluded that Dershowitz was, indeed, guilty of plagiarism in *The Case for Israel*.

Menetrez put in quite a bit of time and effort trying to find out exactly and specifically what it was that Harvard investigated with regard to charges of plagiarism and error leveled against Dershowitz. He made extensive efforts to communicate with Harvard. He got nowhere. The final communication that Menetrez received from Harvard came from the same Michael Armini: "Hello Mr. Menetrez. I don't have anything more to add other than what I said a couple of years ago. The accusations made by professor Finkelstein were investigated by Harvard University and it was determined that plagiarism did not occur. This has been widely reported. We do not plan to provide any further detail on this matter."

Menetrez made several follow-up attempts to get more answers from Harvard, but none were forthcoming. But why did Elena Kagan fail or refuse to decide herself whether Dershowitz should be punished, despite clearly having the jurisdiction, as Harvard Law School Dean, to investigate and rule on the matter? Even though she "punted" on this matter to Derek Bok, she clearly had an independent responsibility to familiarize herself with the issues brought up against Dershowitz by Finkelstein, and she arguably should have intervened in 2006-2007, when Dershowitz was attempting to, and succeeded in, destroying Norman Finkelstein's career at DePaul University.

Norman Finkelstein did have a direct exchange with Kagan. Here's his email to *CounterPunch*'s editors of how it went:

"A. In an article posted on Harvard Law School web site, Dershowitz alleged that my late mother was, or I thought she was, a Nazi collaborator.

B. I contacted Elena Kagan and put to her two questions: 1) Can you point to any evidence that my late mother was a Nazi collaborator? 2) Are there any limits to what Harvard professors can post on HLS's official web site?

C. I received a reply via Kagan's press secretary Michael Armini, in which she declined to answer the first question, and in reply to the second question, she stated that HLS's web site had 'broad limits.'

D. I rejoined that 'broad limits' is different from 'no limits.' I then put to her the hypothetical: If an HLS faculty posted on the official HLS web site that Kagan's mother was a whore, would she allow such a statement to stay up?

E. I received in reply an email that Kagan sent to Armini in which she said that 'henceforth, we can ignore Finkelstein.'

It's hard to compare, but which do you think is worse: Calling Kagan's mother a whore, or calling my late mother, who is no longer able to defend herself, a collaborator with those who exterminated every member of her family? Kagan has the perfect moral compass of a climber and a lickspittle." **CP**

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